

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MARK CHRISTIANS,

Plaintiff,

vs.

DARRIN YOUNG, in his individual capacity;
DAN SULLIVAN, in his official capacity;
TROY PONTO, Deputy Warden SDSP,
individual and official capacity; JESSICA
COOK, Associate Warden SDSP/Jameson,
individual and official capacity; BRENT
FLUKE, Warden MDSP, individual and official
capacity; REBECCA SCHIEFFER, Associate
Warden MDSP, individual and official capacity;
ALEX REYES, Associate Warden MDSP,
individual and official capacity; CODY
HANSON, Unit Manager Jameson, individual
and official capacity; SETH HUGHES, Unit
Manager Jameson, individual and official
capacity; NANCY CHRISTENSEN, Unit
Manager MDSP, individual and official
capacity; DEREK EKEREN, Unit Coordinator
Jameson, individual and official capacity; DEB
EILERS, Unit Coordinator MDSP, individual
and official capacity; LAURIE STRATMAN,
Unit Coordinator MDSP, individual and official
capacity; JULIE STEVENS, Case Manager
MDSP, individual and official capacity; CRAIG
MOUSEL, Property Officer, SDSP, individual
and official capacity; MIKE LEIDHOLT,
individual capacity; KELLIE WASKO, official
capacity, PECHOUS, Unit Coordinator,
individual and official capacity; GENIE BIRCH,
Program Manager, individual and official
capacity; GREASMAN, Correctional Officer,
individual and official capacity; DAWN
ALUMBAUGH, Correctional Officer,
individual and official capacity; MARJAMA,
Correctional Officer, individual and official
capacity; WINTERS, Correctional Officer,
individual and official capacity; PADILLA,

4:20-CV-04083-LLP

ORDER REQUIRING FULL APPELLATE
FILING FEE OR MOTION TO PROCEED
IN FORMA PAUPERIS ON APPEAL

Correctional Officer, individual and official capacity; MULLINS, Correctional Officer, individual and official capacity; HULSCHER, Correctional Officer, individual and official capacity; DREISKE, Former Deputy Warden, individual capacity; BECKER, Lieutenant, individual and official capacity; HETTIG, Lieutenant, individual and official capacity; SORENSON, Lieutenant, individual and official capacity; PERRET, Lieutenant, individual and official capacity,

Defendants.

Plaintiff, Mark Christians, filed this pro se civil rights lawsuit under 42 U.S.C. § 1983. On September 30, 2024, the Court issued an Order Granting in Part and Denying in Part Motion for Summary Judgment Regarding Newly Added Claims and Defendants. Doc. 345. Christians¹ filed a notice of appeal to the United States Court of Appeals for the Eighth Circuit from the Court's September 30, 2024 Order. Docs. 379, 380. Christians did not pay the \$605 appellate filing fee or file a motion to proceed in forma pauperis on appeal.

Under the Prison Litigation Reform Act (PLRA), a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). “[T]he assessment of appellate filing fees occurs upon the filing of a notice of appeal . . . and fixes responsibility for payment sooner rather than later of the fees in full.”

Henderson v Norris, 129 F.3d 481, 484 (8th Cir. 1997) (per curiam). “Irrespective of the court’s

¹ The Court has scheduled on trial on the claims that remain pending after disposition of Defendants’ motions for summary judgment. Doc. 376. The Court appointed counsel to represent Christians during the trial of the remaining claims. Doc. 375. After the Court appointed counsel, Christians filed a pro se notice of appeal. Docs. 370, 380. The Court did not appoint counsel to represent Christians for any purpose other than submitting pre-trial submissions ordered by the Court and preparing for and trying the claims that survived summary judgment. Doc. 368 at 11–12 n.4; Doc. 375 at 2.

approach to the merits of the appeal, the prisoner's liability for the full payment of the appellate filing fees under the PLRA continues until full payment has been made which may be long after . . . dispos[al] of the appeal." *Id* Pursuant to 28 U.S.C. § 1915(b)(2), a prisoner may pay the full amount of the filing fee in installments. Accordingly, it is

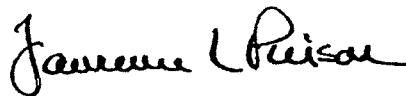
ORDERED that Christians must pay the full \$605 appellate filing fee and may do so by paying in installments. It is further

ORDERED that the Clerk of Court shall send Christians a blank Motion to Proceed Without Prepayment of Fees and Declaration and a blank Prisoner Trust Account Report form. It is finally

ORDERED that if Christians seeks to pay the appellate filing fee in installments, he must move for leave to proceed in forma pauperis on appeal and submit a certified prisoner trust account for the last six months on or before **May 19, 2025**. If Christians does not timely comply with this Order, the Court will calculate the initial appellate partial filing fee at \$35 or such other reasonable amount warranted by available information. After calculating the initial appellate partial filing fee, the Court will order payment of the full appellate filing fee pursuant to the installment payment provisions of 28 U.S.C. § 1915(b)(2).

DATED this 18th day of April, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lawrence L. Piersol", written over a horizontal line.

LAWRENCE L. PIERSOL
United States District Judge